

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRUCE L. WISHNEFSKY,)	
)	
Plaintiff,)	Civil Action No. 08-128J
)	
v.)	Judge Kim R. Gibson
)	Magistrate Judge Lisa Pupo Lenihan
JAWAD A. SALAMEH,)	
)	
Defendant.)	

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Civil Rights Complaint (doc. no. 1) on June 3, 2008, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Magistrate Judge Lisa Pupo Lenihan filed a Report and Recommendation on December 22, 2009 (doc. no.33), recommending that Defendant's Motion to Dismiss (doc. no. 23) be denied with respect to Plaintiff's Eighth Amendment claim arising from the alleged delay of Plaintiff's medical treatment between May 17, 2007, to May 22, 2007; that Defendant's Motion to Dismiss be granted with respect to all other claims of the Eighth Amendment violations alleged in Plaintiff's Complaint, as amended (doc. no. 22), and that supplemental jurisdiction not be exercised with respect to Plaintiff's State law medical battery and that it be dismissed for lack of jurisdiction. Plaintiff was served with the Report and Recommendation and advised that he had fourteen days within which to file objections to the Report and Recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the

Report and Recommendation, the following order is entered:

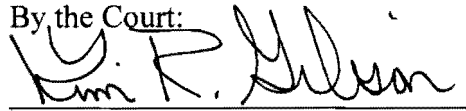
AND NOW, this 4th day of February, ~~2009~~ ²⁰¹⁰;

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss (doc. no. 23) is **DENIED** with respect to Plaintiff's Eighth Amendment claim arising from the alleged delay of Plaintiff's medical treatment between May 17, 2007, to May 22, 2007 and **GRANTED** with respect to all other claims of violations of the Eighth Amendment alleged in Plaintiff's Complaint, as amended (doc. no. 22).

IT IS FURTHER ORDERED that Plaintiff's State law medical battery claim is **DISMISSED** for lack of jurisdiction.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 33) of Magistrate Judge Lenihan dated December 22, 2009, is adopted as the Opinion of the Court.

By the Court:



Kim R. Gibson

United States District Judge

cc: Bruce L. Wishnefsky
DQ-4829
SCI-Laurel Highlands
5706 Glades Pike
Somerset, PA 15501